



PLANNING COMMISSION MEETING STAFF REPORT MAY 11, 2006

Project: CASTILLEJA TRACT MAP- (PLN2006-00206)

Proposal: To consider Vesting Tentative Tract Map 7757, Private Streets and Preliminary Grading Plan for the development of 114 housing units.

Recommendation: Approve, based on findings and subject to conditions

Location: 48835-48881 Kato Road on the edge of the Warm Springs Planning Area
APN 519-1010-060 (See aerial photo next page)

Area: 7.04-acre lot

People: Santa Clara Development/Robson Homes, Applicant
Jake Lavin, Agent of Applicant
Civil Engineering Associates, Consultants
Steve Sundeen, Mission San Jose LLC, Owner
Scott Ruhland, Staff Planner (510) 494-4453, sruhland@ci.fremont.ca.us

Environmental Review: A Mitigated Negative Declaration was prepared and circulated for this project.

General Plan: Medium Density Residential, 11-15 units/acre and 18-23 units/acre

Zoning: Planned District, P-2005-348

EXECUTIVE SUMMARY:

The existing industrial site was re-designated and rezoned to multi-family residential through a City-initiated process as part of the Housing Element Implementation Program. The applicant recently received approval for a Planned District rezoning for the purposes of developing a new 114 unit residential neighborhood comprised of single-family detached homes, common open space and substantial site and landscape improvements. The current entitlement request is for approval of a Vesting Tentative Tract Map 7757, Private Streets and Preliminary Grading Plan to implement the approved Planned District development plan.

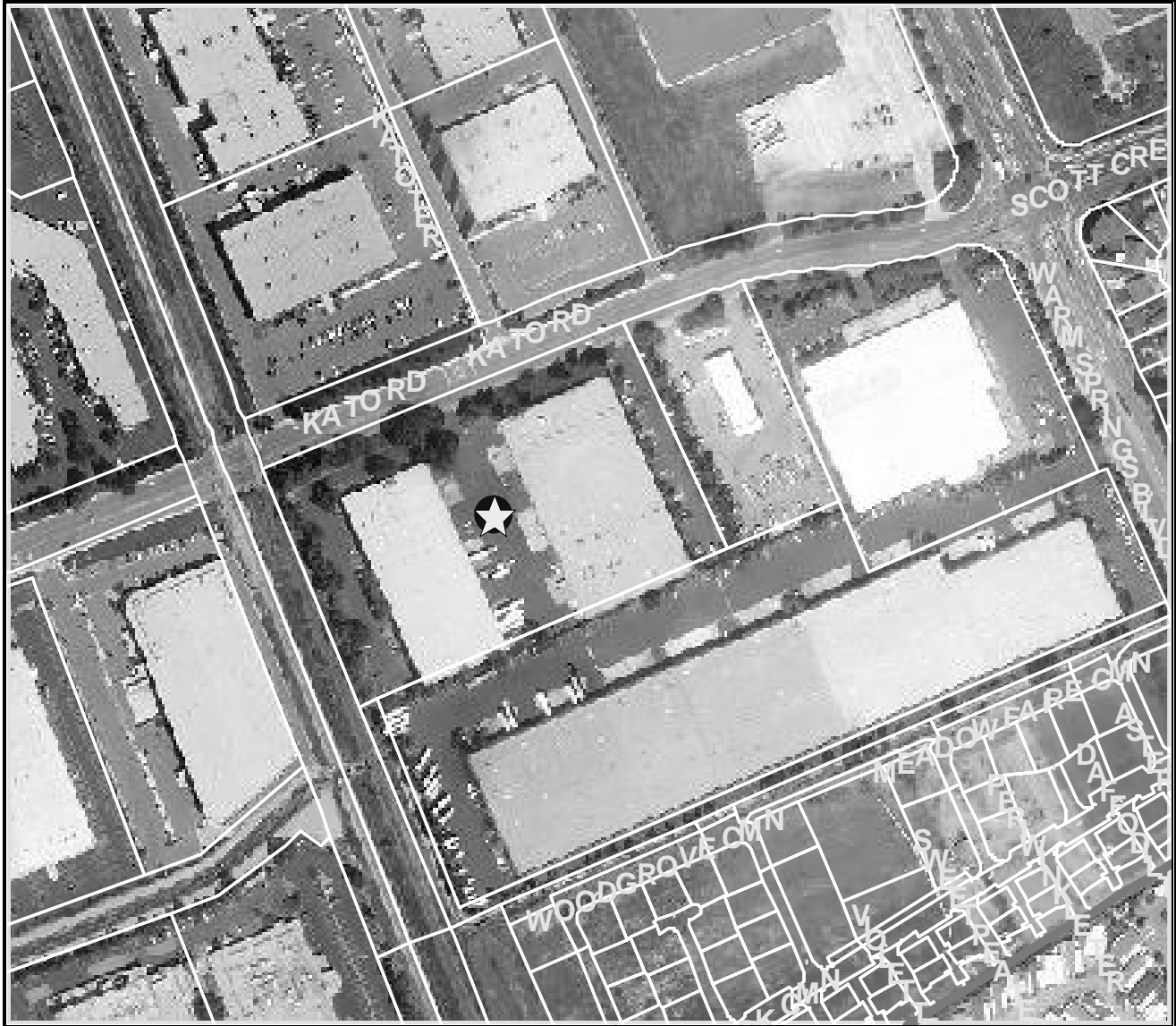


Figure 1: Aerial Photo (2002) of Project Sites and Surrounding Area.



SURROUNDING LAND USES:

- North: Light Industrial/Business Park
- South: Future Residential
- East: Future Residential
- West: Railroad Tracks and Light Industrial Beyond

BACKGROUND AND PREVIOUS ACTIONS:

A City-initiated General Plan Amendment and Rezoning, PLN2004-00272, was approved on July 13, 2004. The purpose of that action was to change the land use of the project site from industrial to residential to facilitate multi-family residential development as contemplated by the Housing Element Implementation Program. A Mitigated Negative Declaration for the General Plan Amendment and Rezoning was also adopted on July 13, 2004.

The Planned District previously approved for this project was reviewed by the Planning Commission on January 26, 2006. The Commission recommended approval of the Planned District to the City Council. The Council reviewed and approved the Planned District zoning on February 28, 2006.

PROJECT DESCRIPTION:

The proposed project is a request for a Vesting Tentative Tract Map 7757, Private Streets and Preliminary Grading Plan for the subdivision and development of one parcel of land into multiple parcels to accommodate 114 residential units and associated, circulation, access, grading and drainage improvements.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Medium Density Residential, 11-15 units/acre and 18-23 units/acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed project meets the intent of medium density residential designation by achieving compliance with the midpoint density range.

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Housing Goal 2 – High quality and well-designed new housing of all types throughout the City.

Land Use Goal 1 – New housing development while conserving the character of the City's existing single family residential neighborhoods.

The project conforms to this policy because it conserves the quality and character of nearby residential neighborhoods and closely integrates with planned new development to the south and east.

Land Use Policy 1.1 – Residential as the primary use allowed in residentially designated areas. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.

The project conforms to this policy because residential is the use being proposed in this residentially designated area in conformance with the required density.

Zoning Regulations:

Vesting Tentative Tract Map 7757, Private Streets and Preliminary Grading Plan are in conformance with the approved zoning for the site, P-2005-348.

Design Analysis:

Circulation:

Circulation is proposed as a single loop private street with auto-courts that provide access to the individual units. Access to the site is provided via a main driveway off of Kato Road. An emergency vehicle access easement (EVAE) will be provided along southern boundary of the project site and connect to the adjacent site, Warm Springs Village.

On site vehicle circulation is provided by private vehicle access ways (PVAWs), a type of private street used in condominium and townhouse developments. The PVAWs shown on the tentative map are consistent with the previously approved Planned District and conditions of approval regarding the required private street improvements are included with the tentative map conditions.

Street Right-of-way Dedication and Improvements:

The project fronts on Kato Road, a four-lane arterial as designated by the General Plan. In accordance with the Subdivision Ordinance, "The subdivision design shall conform to the pattern of thoroughfares designated in the General Plan and to any future street rights-of-way designated by the commission and approved by the council." (FMC 8-1503) The tentative map has been prepared in conformance with the previously approved Planned District, including the developer's plan to dedicate right-of-way on Kato Road in conformance with the General Plan and the City Council adopted precise plan map, which includes planned right-of-way for a future grade separation of Kato Road and the adjacent railroad tracks. Conditions of approval for the right-of-way dedication and street improvements were included with the Planned District (PLN2005-00348).

Easements:

The project site contains several existing easements for utility purposes, roadway purposes, and private storm drain purposes. The public utilities and their corresponding easements along Kato Road were aligned to conform to the planned street right-of-way and railroad grade separation (see discussion above). With this project, the applicant is proposing to realign several existing utilities and vacate easements. The applicant has worked with staff and the utility agencies to make sure the proposed utility relocations and easement vacations can be accomplished, subject to future review, approval, permitting, and acceptance by the City or utility agency.

Grading & Drainage:

The site is currently improved with two industrial buildings, associated parking lots, drive aisles, landscaping, and utilities. The buildings, pavement, utilities, and some landscaping will be demolished to accommodate the proposed residential project. Proposed grading will provide building pads and will direct runoff towards the southernmost corner of the site. The project engineer estimates grading to be 11,000 cubic yards of fill.

The developer has also included a "rough grading plan" (sheet 4) that includes the proposal for an eight-foot tall stockpile, in the center of the site, and three retention basins, along the western edge of the site. The rough grading plan has been included to illustrate a phased grading approach for the project. The

stockpile would allow the developer to import and store material needed for the project. The retention basins are proposed to clarify storm water by settling pollutants carried in the runoff, before the water is pumped into the public storm drain from the southernmost basin. The developer may apply for a grading permit to allow this rough grading, prior to approval of the final map. The grading permit is subject to review, conditions, and permitting by the City Engineer, in accordance with the Grading Ordinance.

Urban Runoff Clean Water Program:

The current Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit was issued in February 2003. The NPDES permit requires all new development to incorporate measures to prevent pollutants from being conveyed in storm water runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

The project intends to meet the quantitative storm water treatment requirements by constructing bio-swales, pervious gutters, and an underground storm water treatment vault (CDS unit). The design team has included concept storm water treatment measures on the grading and drainage plan (sheet 3). The bio-swales are located adjacent to the railroad tracks and in the central open space. Permeable gutters are proposed around Palo Verde Common and the CDS unit is in the northwest corner of Palo Verde Common. The provided concept storm water treatment measures, as shown on sheet 3, are informational only and are not being approved as part of the tentative tract map.

The proposal to use permeable gutters is not an Alameda Countywide Clean Water Program approved storm water treatment measure. Permeable pavement is an accepted source control best management practice, because it reduces the amount of storm water runoff and in some locations allows runoff to infiltrate the ground. The design intent is that the permeable pavers and sand will act as a media filter, trapping pollutants and letting water through to the subdrain. In order to conform to the quantitative performance criteria of the Countywide NPDES permit, the project may be required to incorporate additional treatment control best management practices, to treat storm water runoff. The storm water treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to final map approval.

Geologic Hazards:

The project site is within an area of potential liquefaction on the official Seismic Hazard Zones, Milpitas Quadrangle map, released by the State Geologist on October 19, 2004. In accordance with the Seismic Hazard Mapping Act, the project geotechnical engineer prepared a seismic hazard report. The report was reviewed and approved by the City and filed with the State Geologist. The subdivision improvements and building construction will conform to the recommendations of the seismic hazard report.

Environmental Review:

An Initial Study and Mitigated Negative Declaration has been prepared and circulated for the project. The environmental analysis identified concerns regarding potential impacts to noise and vibration, tree preservation and air quality. The Mitigated Negative Declaration and associated Mitigation Monitoring Plan includes mitigation measures, which will reduce the identified impacts to non-significant levels. These measures include acoustical and structural engineering methods to reduce effects of noise and

vibration from the nearby railroad; dust suppression and asbestos survey methods to reduce impacts to air quality; and, specific landscape and tree requirements.

A finding is proposed that the Mitigated Negative Declaration for this project, PLN2006-00206, adequately addresses potential impacts and the proposed project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 58 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on April 14, 2006. A Public Hearing Notice was published by The Argus on April 27, 2006.

ENCLOSURES:

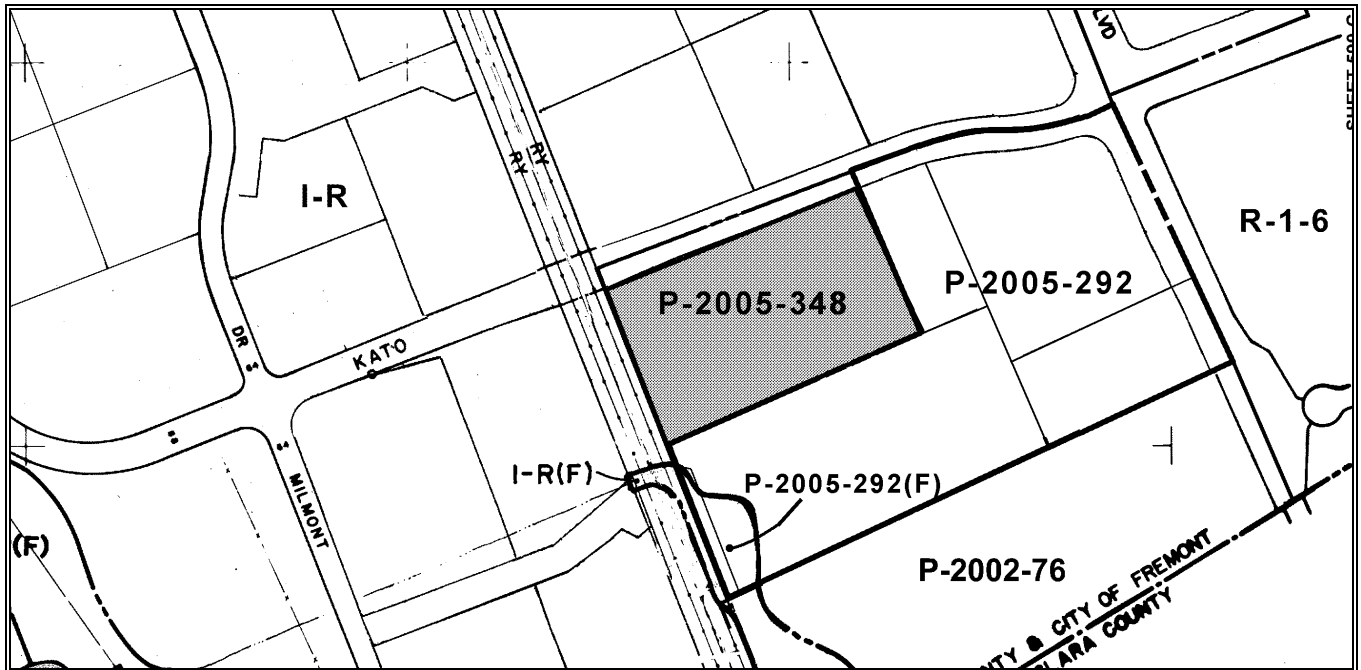
Exhibits: Exhibit "A" Vesting Tentative Tract Map 7757, Private Street and Preliminary Grading Plan
Exhibit "B" Findings and Conditions of Approval
Mitigated Negative Declaration and Mitigation Monitoring Plan

Informational: 1. Initial Study

RECOMMENDATION:

1. Hold public hearing.
2. Find the initial study and Mitigated Negative Declaration prepared for the project has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.
3. Find that the Mitigated Negative Declaration prepared and circulated for the project adequately addresses potential impacts arising from the proposed project and the identified mitigation measures will reduce potential impacts to less than significant levels and further find that this action reflects the independent judgment of the City of Fremont.
4. Approve the Mitigation Monitoring Plan for the project (PLN2006-00206).
5. Find Vesting Tentative Tract Map 7757, Private Street and Preliminary Grading Plan are in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Land Use Chapters as enumerated within the staff report.
6. Approve Vesting Tentative Tract Map 7757, Private Street and Preliminary Grading Plan as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



EXHIBIT "B"
CASTILLEJA - PLN2006-00206

**VESTING TENTATIVE TRACT MAP 7757, PRIVATE STREETS &
PRELIMINARY GRADING PLAN**

VESTING TENTATIVE TRACT MAP FINDINGS

The following findings are made based upon the information contained in the staff report to the Planning Commission dated May 11, 2006, as well as information presented at the public hearing, incorporated hereby:

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as stipulated in the Planned District (P-2005-348) zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan and any applicable specific plan, because the proposed development conforms to the requirements of the zoning district as well as the General Plan land use designations for the site.
3. The site is physically suitable for the type and proposed density of the development because it is flat, located on a major arterial and located in an urban area.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because no habitat exists on site. The site is a developed former industrial site with no wildlife resources.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems because the environmental review process of the subdivision has taken those concerns into consideration and has found with proper mitigation all impacts would be less than significant.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements and vacation of existing easement will be required prior to the acceptance of the Final Map for this project.

PRIVATE STREET FINDINGS

1. The most logical development of the land requires private street access because the physical character of the project is more amenable to the less intense right of way required of a private street.
2. The development of the land is well defined because the design of the subdivision and proposed improvements are in conformance with the City of Fremont's applicable codes and policies.

PRELIMINARY GRADING PLAN FINDINGS

1. The proposed project described in the application will not have a appearance, due to the grading, excavation, or fill, that substantially and/or negatively affects the site.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the site.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the City Engineer upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
5. The proposed project described in the application will not negatively impact the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

VESTING TENTATIVE MAP CONDITIONS OF APPROVAL

1. The project shall conform to Exhibit "A" (Vesting Tentative Map 7757 & Private Streets), all conditions of approval set forth herein, and the conditions of approval of Planned District P-2005-348.
2. Approval of this Vesting Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
3. The final map and subdivision improvement plans shall be submitted to the Engineering Division for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
4. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.

5. The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7757.
6. The subdivision improvement plans, including utility plans, shall be designed in accordance with the project geotechnical report by Donald E. Banta & Associates, Inc., dated January 14, 2005, and any supplemental geotechnical report.
7. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The disclosure statement shall also indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.
8. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
9. Pursuant to Government Code Section 66474.9, the Subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
10. Any development on the newly created lots will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit issuance.
11. A minimum six-foot wide public service easement shall be dedicated along the Kato Road frontage of the subdivision. Project entry and monument signs and walls shall not be located within the public service easement.
12. All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within an appropriate utility easement or public service easement.
13. The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.
14. The developer shall submit a detailed geotechnical report, including recommendations regarding pavement structural sections, prepared by a qualified engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads. The subdivision improvement plans, including utility plans, shall be designed in accordance with the required geotechnical report.
15. The subdivision storm water treatment plan shall comply with the Alameda Countywide NPDES Municipal Stormwater Permit, Section C.3.d, Numeric Sizing Criteria For Pollutant Removal

Treatment Systems. In order to comply, the project may have to incorporate additional or revise the proposed storm water treatment control best management practices, which may result in minor modifications to the site plan, grading plan, and drainage plan. The subdivision storm water treatment plan, storm water pollution prevention plan (SWPPP), and the associated storm water treatment calculations are subject to review and approval of the City Engineer. The plans and calculations shall be approved by the project geotechnical engineer and may be referred to a City-selected peer review consultant. Peer review fees shall be paid by the subdivider.

16. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
17. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
18. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
19. All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
20. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Fremont.
21. For air conditioning units, air conditioning condensate should be directed to landscaped areas or alternatively connected to the sanitary sewer system after obtaining permission from Union Sanitary District. Any anti-algal or descaling agents must be properly disposed of. Any air conditioning condensate that discharges to land without flowing to a storm drain may be subject to the requirements of the State Water Resources Control Board's (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.
22. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever practicable.
23. The sound wall next to the railroad right-of-way shall include holes along the base of the wall for the planting of vines to help prevent graffiti on the wall. Vines shall be planted with irrigation on the east side of the wall, but trained to grow through the holes and up the west of the wall. Vines will be established to the satisfaction of the City Landscape Architect, prior to acceptance of the street improvements for Kato Road.
24. This Private Street (PLN2006-00206) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the Private Street application. If any of the

information is shown to be inaccurate subsequent to approval of the Private Street by the City, such inaccuracy may be cause for invalidating this approval. Approval of Private Street (PLN2006-00206) shall become effective upon final map approval.

25. The private street names are subject to modification prior to final map approval.
26. A Private Vehicle Access Way (PVAW) and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.
27. Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. Dedication of emergency vehicle access easements (EVAE) on the final map over the private street right-of-way will be required. The easement geometry shall be subject to the approval of the City Engineer.
28. Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
29. Deed restrictions are to be recorded concurrently with the final map to create a mandatory Home Owner's Association or any other mechanism acceptable to the City for those lots with private street frontage which is to covenant and be responsible for the following:
 - a. Maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Home Owner's Association.
 - b. Payment of the water and private street lighting (maintenance and energy) bills.
 - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.
 - d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the Home Owner's Association. The Home Owner's Association is to be responsible for repainting any fire hydrants along the private street.
30. Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Home Owner's Association and the conditions, covenants and restrictions applying to the development.
31. Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to final map approval.
32. Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve prior to final map approval or agree to improve within one year of final map approval, the private streets within the subdivision. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City

Engineer. Improvements to be constructed include, but are not limited to: Curb and gutter, driveways, street paving, private street monuments, electroliers (wired underground), drainage facilities, signs, and fire hydrants.

33. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a thirty-year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
34. Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot-candle level of 0.12.
35. A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
36. The applicant shall comply with all mitigation measures established for the project as identified in the Mitigated Negative Declaration and described below:

Mitigation Measure MM#1: To mitigate the identified air quality impacts of grading and construction, dust suppression measures shall be incorporated into the project conditions of approval and construction drawings. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil, and similar materials shall be covered with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving shall be completed as soon as feasible to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be replanted to minimize the generation of dust. A person shall be designated a person to oversee the implementation of the dust control program.

MM #2: In terms of demolition activities, applicants and/or owners shall be required to receive appropriate approvals from all regulatory agencies, including a "J" number from the Bay Area Air Quality Management District (BAAQMD).

MM #3: Prior to any demolition, renovation or removal of structures on any of the project sites, an asbestos survey of existing structures shall be performed consistent with National Emissions Standards for Hazardous Air Pollution guidelines. If warranted, a remediation plan to remove asbestos shall be prepared and implemented. Said plan shall be consistent with applicable Fremont Fire Department standards, Bay Area Air Quality Management District requirements and Cal-OSHA standards. Necessary permits shall be obtained from all applicable regulatory agencies. In addition, a lead based paint survey shall be conducted. If lead-based paint is encountered, the requirements as outlined in Cal OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1 (or succeeding regulation) shall be followed.

MM#4: As mitigation for the removal of up to 109 trees, the following items shall be required:

- Street trees of 24" box size shall be provided along Kato Road and at approximately 35' on center. Street trees shall be installed per the City's Standard Detail for Street Tree Planting. Species and location are subject to the approval of the City's Parks Supervisor.
- Specimen trees of 60" box size shall be included as part of the landscape features at the gateway/entry nodes at Kato Road. There shall be no less than two such areas throughout the project site featuring specimen size trees; species subject to staff approval during Tract Improvement Plan review and Development Organization review.
- All trees in and surrounding the Common Open Space shall be installed as 36" box size or greater. The Common Open Space Landscape Plan shall also provide space for a minimum of two 60" box size specimen trees, species subject to staff approval during Tract Improvement Plan review and Development Organization review.
- All other new trees shall be minimum 24" box size.

MM#5: No known significant historical, paleontological or archaeological resource, site structure or object has been identified either on the project site or in the general area of the project site. There are no known unique cultural resources, and therefore, no potential for restrictions. However, should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5(e) and (f) will be followed to reduce impacts to a non-significant level.

MM #6: Building plans submitted to the Development Organization for building permit review shall include the geotechnical recommendations from the Donald E Banta & Associates Geotechnical Investigation dated January 14, 2005.

MM#7: A post-closure report shall be submitted to the City's Fire Department for review and approval prior to demolition of the buildings to ensure the regulated facilities have been properly removed.

MM#8: Standard water pollution and erosion control measures following Best Management Practices (BMPs) will be implemented to prevent runoff and sedimentation from entering the storm drain system. The project shall achieve compliance with the Alameda County Urban Storm Water Runoff Program, in conformity with the National Pollution Discharge Elimination System (NPDES) program established by the Clean Water Act.

MM #9: The following measures shall be implemented to mitigate impacts from noise and vibration:

- The interior noise levels within all residential units due to exterior transportation sources (existing and future road traffic on Kato Road, existing and potential future Union Pacific Railroad freight operations, and potential future BART rapid transit trains) shall comply with the limits in Policy HS 8.1.1 of the City of Fremont Health & Safety General;

specifically noise exposure levels of 45 dBA L_{dn} in all habitable rooms, and instantaneous noise levels of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other habitable rooms. If the interior noise limits can only be met with the windows closed, mechanical ventilation meeting code ventilation requirements shall also be provided.

- A ten (10) foot high sound wall shall be constructed along the western property line to reduce wheel/rail noise contribution from existing and future freight train movements, and future BART train noise.
- Seven (7) foot sound walls shall be constructed for the private yard areas along Kato Road to mitigate potential traffic noise.
- Residential units affected by vibration from existing and potential future freight and rapid transit train movements shall be designed in a manner to reasonably mitigate building vibration. This shall include slab on grade construction for the first floor, and wood joist systems having natural frequencies of 25 Hz or greater for the upper floors, which shall be accomplished by one or more of the following: deeper joists, shorter joist spans, joist stiffening, and gluing and screwing the plywood sub-floor to the joists, subject to the review of the City's Noise and Vibration consultant.
- The applicant/developer shall provide full disclosure to buyers regarding the potential noise and vibration impacts associated with the site. Potential buyers should be advised that although all reasonable and practicable measures have been taken to reduce noise and vibration impacts, they may still be affected by noise and vibration from existing and future train and BART operations.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

37. The project shall conform with Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Vesting Tentative Map 7757, PLN2006-00206, and the conditions of approval of Planned District P-2005-348.
38. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.

39. Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 7757. Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Tract Map 7757.
40. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
41. A stockpile-grading permit may be issued for this project. The location and size of the stockpile and retention basins may vary from what is indicated on Exhibit "A", subject to review and approval of the City Engineer.
42. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.
43. The concept storm water treatment measures, as shown on the preliminary grading plan (Exhibit "A", sheet 3), are for informational purposes only and are not being approved as part of the preliminary grading plan.
44. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
45. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
46. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
47. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
48. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.